

THE ATKIN FIRM, LLC

Formed in the State of New Jersey

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

STRIKE 3 HOLDINGS, LLC,

Plaintiff,

v.

JOHN DOE subscriber assigned IP
address 68.83.56.212,

Defendant.

Civil Case No. 3:20-cv-02676-FLW-TJB

ORDER

THIS MATTER having been opened to the Court by John C. Atkin, Esq., on behalf of Plaintiff Strike 3 Holdings, LLC (“Plaintiff”), on a Motion for Leave to Serve a Third-Party Subpoena Prior to a Rule 26(f) Conference [ECF No. 4]; it appearing that Defendant has not yet been served in this matter; the Court having considered Plaintiff’s written submissions in connection with the motion pursuant to Federal Rule of Civil Procedure 78, and for good cause shown,

IT IS on this 25th day of August, 2020,

ORDERED that Plaintiff's Motion for Leave to Serve a Third-Party Subpoena Prior to a Rule 26(f) Conference [ECF No. 4] is GRANTED;

IT IS FURTHER ORDERED that Plaintiff may serve Defendant's internet service provider ("ISP") with a Rule 45 subpoena commanding the ISP to provide Plaintiff with the true name and address of the Defendant to whom the ISP assigned an IP address as set forth on Exhibit A to the Complaint [ECF No. 1-1];

IT IS FURTHER ORDERED that Plaintiff shall attach to any such subpoena a copy of this Order;

IT IS FURTHER ORDERED that Plaintiff may also serve a Rule 45 subpoena in the same manner as above on any service provider that is identified in response to a subpoena as a provider of Internet services to Defendant;

IT IS FURTHER ORDERED that if the ISP qualifies as a "cable operator," as defined by 47 U.S.C. § 522(5), which states:

the term "cable operator" means any person or group of persons

- (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or
- (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

it shall comply with 47 U.S.C. § 551(c)(2)(B), which states:

A cable operator may disclose such [personal identifying] information if the disclosure is . . . made pursuant to a court order authorizing such

disclosure, if the subscriber is notified of such order by the person to whom the order is directed.

by sending a copy of this Order to the Defendant; and

IT IS FURTHER ORDERED that Plaintiff may only use the information disclosed in response to a Rule 45 subpoena served on the ISP for the purpose of protecting and enforcing Plaintiff's rights as set forth in its Complaint [ECF No. 1].

By: s/Tonianne J. Bongiovanni
The Honorable Tonianne J. Bongiovanni
United States Magistrate Judge

- Opposed
- Unopposed